

David C. Kiernan (State Bar No. 215335)
dkiernan@JonesDay.com
David L. Wallach (State Bar No. 233432)
dwallach@JonesDay.com
Abigail Johnson (State Bar No. 294243)
ajohnson@JonesDay.com
Gabriel Ledeen (State Bar No. 291311)
gledeen@JonesDay.com
JONES DAY
555 California Street, 26th Floor
San Francisco, CA 94104
Telephone: 415.626.3939
Facsimile: 415.875.5700

Attorneys for Plaintiff
GREGORY N. STESHENKO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

GREGORY N. STESHENKO,

Plaintiff,

v.

**THOMAS MCKAY, DOROTHY NUNN,
and ANNE LUCERO of the Cabrillo
Community College District; CABRILLO
COMMUNITY COLLEGE DISTRICT;
KRISTINE SCOPAZZI, BERTHALUPE
CARRILLO, and SALLY NEWELL of
Watsonville Community Hospital;
WATSONVILLE COMMUNITY
HOSPITAL,**

Defendants.

Case No. 09-cv-05543 RS

**DECLARATION OF DAVID
KIERNAN IN SUPPORT OF
MOTION TO WITHDRAW AS
COUNSEL**

Date: September 18, 2014
Time: 1:30 PM
Judge: Honorable Richard Seeborg
Courtroom: 3 – 17th Floor

1 I, David C. Kiernan, declare as follows:

2 1. I am a partner at Jones Day, counsel of record for Plaintiff Gregory N. Steshenko.
3 I am a member in good standing of the State Bar of California. I make this declaration in support
4 of Jones Day's Motion to Withdraw as Counsel for Plaintiff Gregory Steshenko. The facts stated
5 in this declaration are true and based upon my own personal knowledge, and if called to testify to
6 them, I would competently do so.

7 2. Since being appointed pro bono counsel, Jones Day has dedicated more than 1,400
8 attorney-hours to Mr. Steshenko's case, which has included preparing for and participating in a
9 settlement conference with Judge Corley, completing substantial fact discovery, and working on
10 expert discovery. Among other things, Jones Day deposed the three individual defendants and
11 the following relevant witnesses: Christine Madsen, Linda Foster, and Marty Potkin. Jones Day
12 also deposed several 30(b)(6) witnesses. In addition to depositions, Jones Day drafted and served
13 requests for production and interrogatories on defendants and met and conferred many times with
14 defendants regarding their objections and responses. Jones Day also served subpoenas on several
15 third parties. Jones Day has also drafted an amended complaint that makes two changes to the
16 existing complaint, neither of which would require additional discovery or delays in the trial
17 schedule.

18 3. Over recent months, however, the attorney-client relationship between Mr.
19 Steshenko, me, and the other Jones Day attorneys representing Mr. Steshenko deteriorated and
20 has now broken down irreparably, making it unreasonably difficult and impossible for Jones Day
21 to continue its appointment effectively in representing Mr. Steshenko. Because it is no longer
22 possible for Jones Day to continue its appointment effectively in representing Mr. Steshenko in
23 this matter, withdrawal is appropriate.

24 4. On August 6, 2014, I notified Mr. Steshenko that Jones Day would ask the Court
25 to revoke the appointment and relieve Jones Day from representing Mr. Steshenko in this matter.

26 5. Jones Day and I have taken all reasonable steps to prevent prejudice to Mr.
27 Steshenko. I notified Mr. Steshenko that Jones Day and I would withdraw as counsel, provided
28 Mr. Steshenko detailed reasons for withdrawing as counsel, provided time for Mr. Steshenko to

1 seek counsel, and agreed to provide Mr. Steshenko all external correspondence, pleadings,
2 deposition transcripts, exhibits, evidence, expert reports and other items reasonably necessary to
3 Mr. Steshenko's continued prosecution of this matter. I have advised Mr. Steshenko of all
4 pending court dates and discovery deadlines, and others at my direction have provided him copies
5 of the Court's Case Management Scheduling Order (ECF No. 697) and Guidelines for Final
6 Pretrial Conference in Jury Cases Before Judge Richard Seeborg.

7 6. I and others on the team have continued to work actively on the matter after
8 notifying Mr. Steshenko of the intent to withdraw.

9 7. I met and conferred with Defendants' counsel concerning this motion and
10 Defendants' counsel represented to me that Defendants take no position on the matter.

11 8. Pursuant to Paragraph 9 of the Guidelines for the Federal Pro Bono Project of the
12 Northern District of California, on Friday, August 8, I consulted with Manjari Chawla, the San
13 Francisco and Oakland divisions' Legal Help Center Supervising Attorney, regarding Jones
14 Day's withdrawal.

15 I declare under penalty of perjury under the laws of California and the United States of
16 America that the foregoing is true and correct. This declaration was executed on August 13, 2014
17 in San Francisco, California.

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19 /s/ David C. Kiernan
20 By: David C. Kiernan
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